

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF WISCONSIN

DUANE LEWIS,

Plaintiff,

VS.

MILWAUKEE BREWERS BASEBALL  
CLUB, L.P.,

Defendant.

Case No. 05-C-1330

**DEFENDANT'S PARTIAL MOTION TO DISMISS PURSUANT TO FEDERAL RULE  
OF CIVIL PROCEDURE 12(b)(6)**

The Milwaukee Brewers Baseball Club, L.P., by and through its attorney, Andrew J. Wronski, Foley & Larder, LLP, hereby moves the Court for an Order dismissing pursuant to Federal Rule of Civil Procedure 12(b)(6): (a) all claims relating to the promotion of Mike Moulder in 2002, and (b) all claims for sexual discrimination and/or sexual harassment, on the merits and with prejudice. As more fully set forth in the Memorandum in Support of Defendant's Partial Motion to Dismiss Pursuant to Federal Rule of Civil Procedure 12(b)(6), the grounds for this motion are as follows:

(a) Plaintiff's claims with respect to the promotion of Mike Moulder in 2002 are untimely pursuant to 42 U.S.C. § 2000e-5(e) and, therefore, are deficient as a matter of law.

(b) Plaintiff's claims of sexual discrimination and/or sexual harassment were not previously included in his charge of discrimination to the United States Equal Employment Opportunity Commission and, therefore, may not be asserted in this action. *McKenzie v. Illinois Dept. of Transp.*, 92 F.3d 473, 481 (7<sup>th</sup> Cir. 1996); *Harper v. Godfrey Co.*, 45 F.3d 143, 147-48 (1995).

WHEREFORE, the Milwaukee Brewers Baseball Club, L.P. respectfully requests that the Court grant its motion for partial dismissal and dismiss all claims of the Complaint relating to (a) the promotion of Mike Moulder in 2002, and (b) to alleged sexual harassment and/or discrimination on their merits and with prejudice.

Dated: May 16, 2006.

Respectfully submitted,

*/s/ Andrew J. Wronski*

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